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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 KATHLEEN LINGAFELTER,

CASE NO. C12-0588JLR

11 Plaintiff,

ORDER ADOPTING REPORT
12 v.
13 MICHAEL J. ASTRUE,
14 Defendant.

AND RECOMMENDATIONS

15 I. INTRODUCTION

16 This matter comes before the court on the Report and Recommendation of United
17 States Magistrate Judge Mary Alice Theiler (Rpt. & Rec. (Dkt. # 25)) ("R&R"), and Ms.
18 Lingafelter's objections thereto (Objections (Dkt. # 26)). Having carefully reviewed all
19 of the foregoing, along with all other relevant documents, and the governing law, the
20 court ADOPTS the R&R (Dkt. # 25), AFFIRMS the decision of the Commissioner, and
21 ORDERS the Clerk to direct copies of this Order to all counsel and to Judge Theiler.

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1 **I. BACKGROUND**

2 Plaintiff challenges a disability determination made by an administrative law judge
3 ("ALJ"). Plaintiff alleges she is disabled because she is obese, has nerve damage, and
4 suffers from leg, back, shoulder, and knee pain. She applied for disability benefits, but
5 was denied. She requested reconsideration of this decision and was denied. She then
6 requested a hearing in front of an ALJ. The hearing was held, and the ALJ denied her
7 application again, finding that she was not disabled and finding much of her testimony to
8 be not credible. Plaintiff appealed to the Appeals Council, which denied her request for
9 review, and finally she appealed to this court. Judge Theiler considered the appeal and
10 issued an R&R recommending that this court affirm the decision below.

11 **II. STANDARD OF REVIEW**

12 A district court has jurisdiction to review a Magistrate Judge's report and
13 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must
14 determine de novo any part of the magistrate judge's disposition that has been properly
15 objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part,
16 the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).
17 The court reviews de novo those portions of the report and recommendation to which
18 specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
19 (9th Cir. 2003) (en banc). "The statute makes it clear that the district judge must review
20 the magistrate judge's findings and recommendations de novo if objection is made, but
21 not otherwise." *Id.*

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III. DISCUSSION

2 None of Plaintiff's objections raise any novel issues that were not addressed by
3 Judge Theiler's R&R. The court has thoroughly examined the R&R and finds it
4 persuasive. Although Plaintiff may disagree with the ALJ's conclusions, her objection
5 contains no factual basis or discussion of relevant law that would justify rejecting the
6 ALJ's sound reasoning.

7 Plaintiff essentially reargues the arguments she made to Judge Theiler, and the
8 court independently rejects them for the same reasons as Judge Theiler. Plaintiff asks the
9 court to overturn the ALJ's factual findings and credibility determinations, arguing that
10 they are not supported by substantial evidence. The court has reviewed the record and
11 concludes that substantial evidence supports all of the ALJ's findings.

IV. CONCLUSION

For the foregoing reasons, the court hereby ORDERS as follows:

14 (1) The court ADOPTS the Report and Recommendation (Dkt. # 25) in its
15 entirety;

(2) The court AFFIRMS the decision of the Commissioner in this case; and

17 (3) The court DIRECTS the Clerk to send copies of this Order to Plaintiff, to
18 counsel for respondent and to Magistrate Judge Theiler.

Dated this 22nd day of January, 2013.


JAMES L. ROBART
United States District Judge